

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

2018 JUN 20 PM 7:33

MARIO H. CAPOGROSSO,

CV18-2710

CLERK
U.S. DISTRICT COURT
Plaintiff
JUN 20 2018

**AFFIRMATION IN
SUPPORT OF
MOTION TO DISMISS**

-against-

ALAN GELBSTEIN, in his official and individual capacity;
BOSHRA VAHDATLAMAS, (also known as BUSHRA VAHDAT) in her official and individual capacity;
IDA TRASCHEN, in her official and individual capacity;
ELIZABETH PRICKETT-MORGAN, in her official and individual capacity;
JEAN FLANAGAN, in her official and individual capacity;
VINCENT PALMIERI, in his official and individual capacity;
DANIELLE CALVO, in her official and individual capacity;
SADIQ TAHIR, in his individual capacity;
PEC GROUP OF NY, INC.;
DAVID SMART, in his individual capacity;
JOHN AND JANE DOE.

Defendants

I, Mario H. Capogrosso, affirm under penalty of perjury that:

1.I, Mario H. Capogrosso, am the plaintiff in the above entitled action, and respectfully move this Court to issue an order dismissing the Defendant's David Smart's counterclaims in their entirety and grant all other relief as asked for, including sanctions, and all other relief as the Court deems appropriate.

2. The reason I am entitled to the relief I seek is the following


- a) Defendant's Counterclaims should be dismissed for failure to state a cause of action under F.R.C.P. 12(b)(6) because it fails to state a claim upon which relief may be granted

- b) Defendant's Counterclaim for Harassment should be dismissed for failure to state a claim for Harassment
- c) Defendant's Counterclaim for Harassment should be dismissed for it is time barred
- d) Defendant's Counterclaims should be dismissed for lack of subject matter jurisdiction under F.R.C.P. 12(b)(1) because federal courts have no jurisdiction over Defendant's frivolous claim.
- e) Defendant's Counterclaims should be dismissed pursuant to Rule 12(b)(2) for lack of personal jurisdiction
- f) Defendant's Counterclaims should be dismissed for failure to sufficiently state a claim in compliance Rule 8(a) of the Federal Rules of Civil Procedure
- g) Pursuant to Rule 11, Defendant should be sanctioned for knowingly making false allegations and frivolous legal claims without any evidentiary support.
- h) Defendant's Counterclaims should be dismissed and stricken for insufficient pleading pursuant to Federal Rule of Civil Procedure 11(a)

WHEREFORE, I respectfully request that the Court grant this motion to dismiss Defendant David Smart's counterclaims with prejudice in their entirety as well as such other relief as may be just and proper.

I declare under penalty of perjury that the foregoing is true and accurate.

Dated; June 18, 2018
Westchester, New York



Mario H. Capogrosso
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